IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5701 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

1 to 5 No

JAI AMBE SECURITY SERVICE

Versus

AMRISH BAHADUR D DUBEY

Appearance:

MR RAMNANDAN SINGH for Petitioner

MR RD RAVAL for Respondent No. 1

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 20/06/2001

ORAL JUDGEMENT

1. RULE. Heard learned counsel Mr.Ramnandan Singh for the petitioner and learned counsel Mr.R.D.Raval for the respondent. Mr.R.D.Raval waives service of Rule for the respondent.

2. The petitioner-employer has filed this petition mainly challenging the order and award of the Labour Court, Vadodara in Reference (LCV) No. 7 of 1994 whereby the respondent is ordered to be reinstated with full backwages.

3. There is a consensus among the learned counsel that the matter is required to be remanded for determining the issue of backwages as no discussion or adjudication as regards backwages appears in the award. It is stated at the Bar that the respondent is already reinstated in service with effect from 1.4.2001 and now no dispute remains as regards reinstatement of the respondent. In these circumstances, the parties have agreed to obtain an order of remand so as to lead necessary evidence before the Labour Court on the basis of which the Labour Court would determine the amount of backwages to be awarded to the respondent for the period from the date of his termination till the date of his reinstatement.

4. Accordingly, by consent of the parties, the Labour Court, Vadodara is requested to reopen the proceedings of the original Reference (LCV) No.7 of 1994 and allow the parties to lead evidence as regards backwages and, after hearing the parties, make a fresh award as regards backwages for the period from the date of termination till the date of reinstatement.

5. This petition is accordingly partly allowed and the impugned award in Reference (LCV) No.7 of 1994 is quashed as far as the direction to pay full backwages is concerned. It is again clarified that the dispute as regards reinstatement does not survive upon reinstatement of the respondent. The parties have agreed that they will cooperate in the proceedings before the Labour Court and obtain award as expeditiously as possible, preferably within six months from today. The learned counsel for the petitioner has also made a statement that the petitioner shall pay to the respondent-trade union Rs.10,000/- (rupees ten thousand) by way of costs of this proceeding within one month from today. Rule is made absolute in the terms as above. Direct Service is permitted.

Sd/-

20.6.2001 (D.H.Waghela, J.)

(KMG Thilake)